

RESOLUTION NO. 87-160

A RESOLUTION CONDITIONALLY APPROVING THE TRANSFER OF AN EXISTING CABLE TELEVISION FRANCHISE, "FRANCHISE", HERETOFORE GRANTED BY DELTA CITY TO ACTON CATV, INC., PURSUANT TO DELTA CITY ORDINANCE NO. 81-21 AND SETTING FORTH TERMS AND CONDITIONS FOR APPROVING SUCH TRANSFER OF SAID FRANCHISE FROM ACTON TO INSIGHT COMMUNICATIONS COMPANY, L.P.

RECITALS

The City Council of the City of Delta, Utah, referred to herein as the "City Council," hereby recites the following as the basis for adopting this resolution:

WHEREAS, the City Council has heretofore adopted an ordinance (Ordinance No. 81-21) granting a cable television franchise, hereinafter referred to as "franchise," to Acton CATV, Inc., hereinafter referred to as "Acton," within the City of Delta, Utah; granting Acton a license to use the City streets and public utility easements for said franchise and setting forth terms and conditions for granting said franchise.

WHEREAS, in accordance with the provisions of the franchise, Acton has requested that Delta City consider a proposed transfer of said franchise to Insight Communications Company, L.P., hereinafter referred to as "Insight," and adopt a resolution authorizing such transfer.

WHEREAS, Acton and Insight executed a document dated November 19, 1986 entitled "Assignment" purported to assign Acton's right, title and interest to Insight, subject to the City Council's approval of said transfer.

WHEREAS, after consideration of the proposed transfer, the City Council has determined that it is in the best interests of the residents of Delta City to adopt a resolution, subject to the conditions to approval as set forth in this resolution, providing for and allowing for said transfer.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, Utah:

1. Compliance with Applicable Law. The consent by the City Council to approve the transfer of said franchise from Acton to Insight is conditioned upon Insight's agreement to be bound by and to comply with all of the provisions of said franchise.

2. Approval of Transfer. The City Council's approval of said transfer shall become effective upon compliance by

Insight, within 30 days from the date of this resolution, of each and all of the following conditions:

(a) All franchise fees due and owing as of the date of approving said transfer shall be paid in full;

(b) Filing with the City Recorder, a copy of the insurance policy required by said franchise, which specifically names Delta City as an additional insured, as of the effective date of the transfer between Acton and Insight. Provided, however, that Acton's insurance policy shall remain in full force and effect up to and including the date of the transfer. In addition, said insurance policy shall provide that Delta City shall be notified in writing, not less than ten (10) days in advance of any contemplated action to cancel said insurance policy or amend any of the terms or provisions thereof;

(c) Insight shall file certification within thirty (30) days from the date of this resolution that it has inspected the cable television system within the corporate limits of Delta City and that it accepts the system and agrees to assume responsibility for necessary repairs to the system;

(d) Filing with the City Recorder, within 30 days of the passage hereof, an instrument addressed to the City of Delta in a form acceptable to the City Manager and City Attorney, accepting the franchise and agreeing to comply with each and all of the terms and provisions set forth in said franchise. If such acceptance has not been filed within the time specified, the resolution approving the transfer of this franchise shall be deemed void and of no further force and effect;

(e) Pursuant to the franchise, Acton shall indemnify and defend Delta City against any liability, claim or cause of action arising from the operation of Acton's CATV system within Delta City, until the time at which the franchise transfer approved under this resolution becomes effective; and

(f) Upon completion of each of the foregoing provisions of this paragraph by Insight, the Delta City Manager shall prepare and file with the City Record a certificate stating that each of the foregoing provisions of paragraph 2 has been completed.

3. Approval to Encumber Franchise. In accordance with Section 6 of the franchise, entitled "Limitation Upon Grant" the City Council hereby approves and Insight is hereby given the right to encumber all or any part of the interest of Insight in and under the franchise, by transferring in trust, mortgage or other hypothecation, as a whole or in part, to secure such indeb-

tedness as may be necessary for the operation and maintenance of the cable television system.

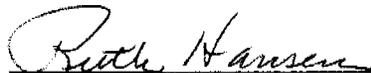
4. Continuance of Franchise. Delta City acknowledges that the franchise remains in full force and effect, notwithstanding any defaults by Acton, to and including the date of transfer, provided, however, that Delta City does not waive their right to bring any cause of action against Acton for damages to Delta City resulting from Acton's default in complying with the terms and conditions of said resolution 81-21 to and including the effective date of said transfer.

5. Effective Date. This resolution shall become effective upon adoption. The franchise transfer approved hereby shall become effective upon compliance with the provisions of paragraph 2 of this resolution.

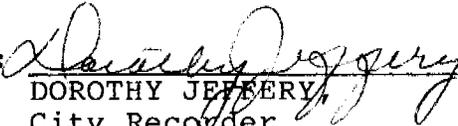
6. Severability. In the event that any provision of this resolution less than the entire resolution is held invalid by a court of competent jurisdiction, this resolution shall be deemed severable and such finding of invalidity shall not affect the remaining portions of this resolution.

7. Repeal of Conflicting Resolutions. To the extent that any resolutions or policies of the City of Delta conflict with the provisions of this resolution, they are hereby amended to be in accordance with the provisions hereof.

PASSED AND APPROVED this 26th day of January, 1987.


RUTH HANSEN, Mayor

Attest:


DOROTHY JEFFERY
City Recorder